

PPA



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,701	05/01/2001	Ryusuke Sawatari	450100-03205	4921

20999 7590 09/08/2004

FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER
----------

SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
----------	--------------

2141

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/846,701	<b>Applicant(s)</b> SAWATARI, RYUSUKE	
	<b>Examiner</b> Kristie Shingles	<b>Art Unit</b> 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)    0                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

*Claims 1-4 are pending.*

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. JP 2000-138245 filed on 05/02/2000.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Ammar et al (USPN 6,215,766).

a. Per claim 1, Ammar et al teach a communication apparatus comprising:

- data-transmitting means for transmitting real-time data through a communication network (Abstract and col.1 lines 8-15; involves transmission of real-time data);

- data-receiving means for receiving data representing data-loss rate, from a data-receiving side to which the data-transmitting means transmits the real-time data (Abstract and col.1 lines 8-15; implementation of rate controls for data transmitted to receivers); and
- rate control means for comparing the data-loss rate with preset first and second threshold values, increasing a transfer rate at which the data-transmitting means transmits the real-time data, when the data-loss rate is lower than both the first threshold value and the second threshold value, not changing the transfer rate when the data-loss rate is higher than the first threshold value and lower than the second threshold value, and decreasing the transfer rate when the data-loss rate is higher than both the first threshold value and the second threshold value (col.9 line 25-col.11 line 55; a packet loss rate exceeding a certain threshold level will cause congestion and the receiver will drop layers, while a packet loss rate below a particular threshold level will cause the receiver to keep/add layers).

b. Claim 3 contains limitations substantially equivalent to the limitations of claim 1 and is therefore rejected under the same basis.

c. Per claim 2, Ammar et al teach the communication apparatus according to claim 1, wherein the rate control means comprises counting means for setting the first threshold value at a value other than zero and for counting the number of times the data-loss rate corresponds to a first state in which the data-loss rate ranges from zero to the first threshold value, a second state in which the data-loss rate ranges from the first threshold value to the second threshold value, or a third state in which the data-loss rate exceeds the second threshold value, and the rate control means determines whether the data-loss rate corresponds to the first data-loss state, the second data-loss state or the third data-loss state in accordance with a count obtained by the counting means and controls the transfer rate in accordance with the data-loss state thus determined (Fig.4 and col.9 lines 5-20; specific counter parameters keep track of each operational state of the

Art Unit: 2141

receiver based upon the packet loss rate when existing above, in-between or below the threshold levels).

d. Claim 4 contains limitations substantially equivalent to the limitations of claim 2, and is therefore rejected under the same basis.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Ravi et al (USPN 6,292,834) disclose a dynamic bandwidth selection for efficient transmission of multimedia streams in a computer network.

b. Kilkki et al (USPN 6,081,843) disclose a system using simulation cell and simulation buffer for regulating cell transfer rate according to occupancy level of the simulation buffer.

c. Kobayashi et al (USPN 6,219,349) disclose broadband switching networks.

d. Gringeri et al (USPN 6,233,226) disclose a system and method for analyzing and transmitting video over a switch network.

e. Mogul et al (USPN 6,243,761) disclose a method for dynamically adjusting multimedia content of a web page by a server in accordance to network path characteristics between client and server.

Art Unit: 2141

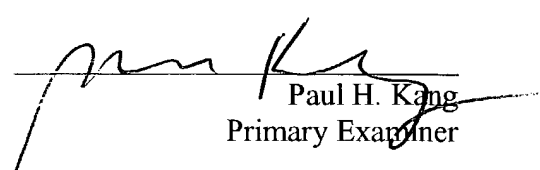
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 703-605-4244. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles  
Examiner  
Art Unit 2141

kds



Paul H. Kang  
Primary Examiner